

UNITED STATES DISTRICT COURT
for the

District of Puerto Rico

Jacinto Mavricio Onofre Aguirre
Petitioner

v.

Case No.

25-cv-1036 JAG

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Warden- Frances A. Rivera - MDC Guaynabo

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Jacinto Mavricio Onofre Aguirre
 (b) Other names you have used: _____

2. Place of confinement:
 (a) Name of institution: Metropolitan Detention Center Guaynabo
 (b) Address: P.O. Box 2005, Cataño, PR 00963 - 2005

3. (c) Your identification number: 70034-018
 Are you currently being held on orders by:
 Federal authorities State authorities Other - explain: _____

4. Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: Middle District of Florida,
Tampa Division
 (b) Docket number of criminal case: 8:18-CR-63-T-24 AEP
 (c) Date of sentencing: 08-27-2018
 Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention
 Immigration detention
 Detainer
 The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
 Disciplinary proceedings
 Other (explain): *first Step Act eligibility and earned time Credits removal.*

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: *MDC Guaynabo, Puerto Rico*

(b) Docket number, case number, or opinion number: *70034-018*

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I was eligible for FSA and had 365 days in earned Time Credits applied to my early release and Suddenly they were removed and I was made inelegible for FSA.

(d) Date of the decision or action: *June, 2024*

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: *MDC, Guaynabo. Case Manager Ms. Rebollo*

(2) Date of filing: *07-01-2024*

(3) Docket number, case number, or opinion number: *70034-018*

(4) Result: *Denied - I was told I was inelegible due to a final Order of removal*

(5) Date of result: *07-22-2024*

(6) Issues raised: *I explained that because of an Immigration Detainer my FSA could not be removed because the policy was updated. I was opted in earning Status and for My detainer I was made inelegible. I also referenced a Case in which an adult in Custody had his FTC's removed due to an immigration detainer and the Court ruled in his favor Ordering BOP to restore and apply his earned FTCs for early release. (See: yufenyuy vs warden FCI berlín Case no. 22-cv-443-AJ. District of NH, March 2023.)*

(b) If you answered "No," explain why you did not appeal:

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: MDC Guaynabo. Unit Manager Mr. Alvarado

(2) Date of filing: 07-24-2024

(3) Docket number, case number, or opinion number: 70034-018

(4) Result: Denied - Ineligible due to a final Order of Removal

(5) Date of result: 08/05/2024

(6) Issues raised: I re-submitted my previous appeal and its attachments to a higher authority and emphasized that the main issue is the existence of an immigration detainer and not a final Order of removal, which in reality does not exist

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: MDC Guaynabo Warden Mr. Adan

(2) Date of filing: 08-05-2024

(3) Docket number, case number, or opinion number: 70034-018

(4) Result: Denied.

(5) Date of result: 08-26-2024

(6) Issues raised: I re-submitted all previous appeals and their attachments to the Warden using my administrative remedies. On this appeal I summarized what caused my FSA eligibility to be removed, a form identified as "Immigration Detainer Notice of Action" and this is not a final Order of removal as claimed, and that on my assessments I'm FSA eligible. I also referenced another Case similar to my own and the Court also ruled in favor granting the request to have his FTCs re-applied to early release (See: Kamando v. Warden, FCI Berlin Case no. 22-cv-425-SE)

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes

No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes

No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? _____

Yes

No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____

*Regional Administrative Remedy Appeal
MDC Guayanabo, Puerto Rico.*

(c) Date of filing: 09-17-2024

(d) Docket number, case number, or opinion number: 70034-018

(e) Result: Not responded

(f) Date of result: Not responded

(g) Issues raised: I Send by U.S Mail a remedy BP 10 for the petition of Solution to Atlanta, GA. Regional, and I Don't Have any answer until This day. 01-06-2025

I Send a Copy to you with the date when they received Such petition.

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I was once eligible for FSA and then my 365 earned days in FTCs were removed.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On Various documents given to me by MDC staff after revision Clearly state my eligibility for FSA. my projected release method of FSA and my projected release date with my FTCs applied. These documents are attached and highlighted where these facts are Stated (Computation Data Sheet, Individualized Needs Plan Program Review, FSA Time Credit Assessment)

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: the document MDC Used to remove my eligibility for FSA is an Immigration Detainer and not a final Order of removal.

(a) Supporting facts (Be brief. Do not cite cases or law.):

This document wrongly Used to remove my eligibility is a DHS 1-247 A form, Called "Immigration Detainer Notice of Action" this form is not identified as being a final Order of removal and on pag 2. (which MDC decided not to provide) it also States that it is only a detainer and its purpose.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: the actual final Order of removal does not exist

(a) Supporting facts (Be brief. Do not cite cases or law.):

there is no final Order of removal filed. I have not been interviewed or Seen by an immigration officer or judge. I have requested my Case manager to See the order of removal and all they provided was DHS form 1-247 A. when Challenging that its Only a detainer and that if there is a order of removal there must be another document filed, MDC staffs responses are evasive and defensive.

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR: *this detainee was sent to MDC staff after they submitted my RRC placement paperwork even when I was not eligible for RRC. This detainee is filed ever since the arrest and updated on every transfer of institution for the agency in custody.*

(a) Supporting facts (Be brief. Do not cite cases or law.):

Because of my immigration status I have always been ineligible for RRC and still my Case manager deceived me into signing the request stating it had no negative consequences and that it had nothing to do with FSA. My program review states "no" for RRC placement, either it was done with evil intentions or my Case manager is simply not qualified for this position. Detainee also are made from the beginning of the arrest by DHS in order for the agency in custody to know they must contact DHS for transfer or even case of death.

(b) Did you present Ground Four in all appeals that were available to you?

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: *I found out that I was not eligible for RRC after submitting my third appeal. Even though the actual words stating that the final order does not exist are not on the appeals it is implied by stating that the issue is the detainee being filed and that it is not a final order of removal, also I requested a copy of the final order of removal but was never responded.*

Request for Relief

15. State exactly what you want the court to do: *I want the Court to see that BOP has wrongfully removed my earned FTCs and to rule in favor of this request ordering BOP to restore my eligibility status as it once was in order to have my 365 days in FTCs re-applied to my early release.*

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

01/13/2025 MDC Guaynabo 10:49 AM

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

01/13/2025



Signature of Petitioner

Signature of Attorney or other authorized person, if any